

**Proposed Addition
of
Regulation Section 11021**

Proposed text is shown underlined.

11021. **Power Plant Siting.** The Commission has designated the following areas within its jurisdiction where the siting of thermal power plants that would generate 50 or more megawatts of power, and some or all ancillary facilities, would be precluded or limited.

(a) **Full Designation:** the following areas are fully designated as non-siting areas where neither power plants nor ancillary facilities may be constructed.

- (1) Existing and proposed federal, state, regional and local parks;
- (2) Existing and proposed federal, state, local and private wildlife refuges;
- (3) Existing and proposed Bay habitat restoration sites;
- (4) Wildlife Priority Use Areas;
- (5) Waterfront Park or Beach Priority Use Areas, including marinas, fishing piers and boat launching ramps;
- (6) Suisun Marsh Primary Management Area;
- (7) Tidal marshes, tidal flats and managed wetlands;
- (8) Riparian vegetation;
- (9) State and federally listed (threatened and endangered) species habitat; and
- (10) Marine mammal haul-out and pupping sites.

(b) **Partial Designation:** the following categories are partially designated as non-siting areas where the siting of power plants and ancillary facilities is limited, precluded or conditioned.

(1) **Category A:**

(A) Category A includes the following areas designated by the *San Francisco Bay Plan*.

- (i) Water-related industry priority use areas;

Port priority use areas; and

(ii) Airport priority use areas.

- (B) A power plant and any ancillary facility may be located within a Category A area when the project would not preclude or adversely affect the existing or future use of the priority use area for its primary purpose.

(2) Category B

- (A) Category B includes the following areas:

- (i) The Commission's Bay and certain waterway jurisdiction other than the areas identified in subsections (a) and (b)(3);
- (ii) The Suisun Marsh Secondary Management Area;
- (iii) Salt ponds; and
- (iv) Existing and proposed public access areas, including the San Francisco Bay Trail, when alternative access is provided during construction and the original access is restored thereafter.

- (B) The following ancillary facilities may be located within Category B areas. Power plants may not be constructed within these areas.

- (i) Underground or underwater electric transmission lines;
- (ii) Intake or discharge lines for cooling systems that pass completely through the area;
- (iii) Underground or underwater fuel pipelines; and
- (iv) Underground or underwater steam pipelines.

(3) Category C

- (A) Category C includes the following areas identified by the McAteer-Petris Act, the *San Francisco Bay Plan* and the *Suisun Marsh Protection Plan* and not otherwise designated in subsections (a) and (b)(2).

- (i) Subtidal areas;
 - (ii) Migratory fish routes;
 - (iii) Spawning areas; and
 - (iv) Nursery sites for juvenile fish and other aquatic organisms.
- (B) The following ancillary facilities may be located within Category C areas when the project would not adversely affect migratory fish, their migration routes, and their spawning and nursery sites. Power plants may not be constructed within these areas.
 - (i) Overhead electric transmission lines;
 - (ii) Intake or discharge lines for cooling systems that pass completely through the area;
 - (iii) Underground or underwater fuel pipelines; and
 - (iv) Underground or underwater steam pipelines.
- (c) **Definitions.** For the purposes of this section, the following definitions apply:
 - (1) “Proposed parks,” “proposed wildlife refuges,” “proposed Bay habitat restoration sites” and “proposed public access areas” mean parks, wildlife refuges, restoration sites and public access areas for which funding has been acquired.
 - (2) “Ancillary facility” means a facility that will be required in order to generate and transmit power from a power plant. Such facilities include transmission lines, intake and discharge lines, and fuel and steam pipelines.
- (d) Despite the provisions of subsections (a) and (b), the Commission may advise the California Energy Commission that it does not object to a proposed project when either:
 - (1) Due to the designations in this section there is a lack of areas available for the siting of a power plant in which case the Commission shall apply the following order of priorities for identifying the most appropriate sites:

- (A) The project would expand facilities within existing power plant sites;
 - (B) The project would develop a new site adjacent to an existing power plant site;
 - (C) The project would develop a new site in otherwise undeveloped areas; or
 - (D) The project would develop a new site in partially designated areas only after a determination that: (i) the Bay site has greater relative merit than available inland sites; (ii) the proposed development is consistent with the primary use of the land; (iii) there will be no substantial adverse environmental effects; (iv) approval by any public agency having ownership or control of the land is obtained; and (v) opportunities consistent with the first four priorities are not feasible; or
- (2) The project would avoid all adverse effects on the resource areas and would otherwise comply with the Commission's laws and policies.

Authority: Sections 66632(f) and 66645, Government Code; and Section 29201(e), Public Resource Code.

Reference: Section 66645, Government Code; the *San Francisco Bay Plan*; the *Suisun Marsh Protection Plan*; and Sections 25507 and 25523, Public Resource Code.